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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,263	10/28/2003	Jung Kook Lee	13060-02USA	6512
35736	7590	05/26/2005	EXAMINER	
JHK LAW P.O. BOX 1078 LA CANADA, CA 91012-1078			LIEU, JULIE BICHNGOC	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,263

Applicant(s)

LEE, JUNG KOOK

Examiner

Julie Lieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 20 is objected to because of the following informalities: “may be” is indefinite. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 7, 11-15, and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Teller (US Patent No. 2002/0013538).

Claim 1:

Teller discloses a health monitoring device comprising:

- a. a skin temperature sensor 102 connected to a microprocessor 114 for mathematically converting the sensed temperature to corrected skin temperature (see para. [0069] and [0073]);

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- b. a movement sensor (para. [0119]);
- c. a display screen (para. [112]); and
- d. a means 202 for communicating with a computer.

Claim 2:

Teller discloses using a humidity sensor indirectly from the Internet. Para. [0073].

Claim 3:

The device in Teller is shaped as a band. Para. [0055].

Claim 4:

Teller suggests that the device could be used on a baby's appendage. Para [0119].

Claim 7:

The computer in Teller is connected to a web server so as to be in communication with other computers at home or at hospital. See [0073],

Claim 11:

Teller discloses a chart comprising corrected skin temperature profile over a set time period. Para. [0073].

Claim 12:

The chart in Teller comprises ambient temperature profile over the set time period. Para. [0073].

Claim 13:

Teller implicitly discloses a chart comprising movement profile over the set time period. Para. [0073] and [0119].

Claims 14 and 15:

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The chart in Teller is display on a solid medium, which is display screen 112.

Claim 19:

Teller discloses a method of identifying a viral infection pattern comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile of a baby and comparing with an established profile. Para. [0073].

Claim 20:

The established profile disclosed in Teller may be provided by a computer at home or computer at hospital, and stored in a common server that links computer at home and computer at hospital.

Claim 21:

Teller discloses a method of identifying early onset of a viral infection comprising reviewing and analyzing a corrected temperature profile, ambient temperature profile and movement profile of a baby and comparing with an established profile, wherein matching profile indicates early onset of the viral infection. Para. [0119].

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 5, 6, 8-10, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teller (US Patent No. 2002/0013538).

Claims 5-6:

Teller discloses connecting to a computer a home comprising software to communicate with the device. See para. [0062]. Though a repeater is not particularly disclosed, it would have been obvious to one skilled in the art to use a repeater at the home computer because the use of a repeater in a computer system, e.g. wireless internet connection device, to receive signal is conventional in the art.

Claim 8:

Teller discloses a method of facilitating determination of health of a baby comprising providing instructions that comprise simultaneously monitoring corrected skin temperature of the baby, monitoring ambient temperature surrounding the baby, and monitoring level of movement of the baby with the device according to claim 1 over time; and comparing and analyzing data obtained, wherein presence of high or rising corrected skin temperature compared with

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substantially level ambient temperature is not healthy. Refer to previously cited paragraphs in the rejection of the apparatus claims.

The reference fails specifically discuss the infrequent movement of the baby. Nonetheless, the reference infers such condition to be detected as it implicitly suggests that undesirable change in the position or movement of the baby factors in as discussed in para. P0119]. In light of this discussion, one skilled in the art would have readily recognized to consider infrequent movements of the baby as a factor to determined an abnormal situation in the Teller monitoring system.

Claim 9:

The instruction disclosed in Teller appears to be in a computer program which inherently in written form.

Claim 10:

The instructions in Teller are transmitted by broadcast.

Claim 16:

Though Teller fails to disclose that the chart is displayed on paper, one of ordinary skill in the art would have readily recognized printing the chart on a piece of paper to for easy examination as preferred by a user.

Claim 17:

The system in Teller compares corrected skin temperature profile, ambient temperature profile, wherein presence of high or rising corrected skin temperature compared with substantially level ambient temperature indicates that the baby is not healthy. The reference fails specifically discuss the infrequent movement of the baby. Nonetheless, the reference infers such

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condition to be detected as it implicitly suggests that undesirable change in the position or movement of the baby factors in as discussed in para. P0119]. In light of this discussion, one skilled in the art would have readily recognized to consider infrequent movements of the baby as a factor to determined an abnormal situation in the Teller monitoring system.

Claim 18:

The method disclosed in Teller comprises reviewing and analyzing the chart according to claim 13, to determine a pattern of rise or fall in corrected skin temperature, which indicates presence of an infection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lackey et al., US Patent No. 2005/0070778 A1, discloses hydration monitoring.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Julie Lieu', with a stylized, flowing script.

Julie Lieu
Primary Examiner
Art Unit 2636

May 21, 05